IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION.

SUIT No.3758 of 1992

Mahanagar Telephone Nigam Ltd. .. Plaintiff.

Vs.

Dynamatic Forgings Pvt.Ltd. .. Defendant.

Ms Karishma Shirke, Advocate i/b Gordhandas & Fozdar, Advocate for the Plaintiff. None for the Defendant.

CORAM: V.C. DAGA,J.
DATED: 27.11.2007.

P.C.:-

1. None appears for the defendant. Heard learned counsel for the plaintiff-M.T.N.L.

2. The present suit has been filed by the plaintiff-M.T.N.L. for recovery of amount due and payable by the defendants under different telephone bills. The defendants failed to pay the amount so demanded by the plaintiffs as per the said telephone bills, as the defendants contested the demand being excessive one. As the defendants have failed to pay the amount, the plaintiffs have had no option but to institute the present suit for recovery of the amount under the suit bills.

3. In the written statement filed by the

defendants, it is reiterated that they were disputing the claim of the plaintiffs in relation to the suit telephone bills. In view of the stand taken on behalf of the defendants, it necessarily follows that a dispute was raised which was squarely governed by provisions of Section 7-B of the Indian Telegraphs Act, 1895. In such a case, reference of dispute to arbitration under Section 7B of the Act is imperative.

4. Taking overall view of the matter and having regard to the mandate of Section 7B of the Act, as expounded by the Apex Court in the case of **Telecom District Manager, Goa and Ors vs. V.S. Dempo & Co. and Ors reported in A.I.R.1996 S.C. 1545,** it is appropriate that the matter is referred to arbitration. The reference to arbitration is for determination of dispute under Section 7-B of the Act, which is a statutory remedy.

5. The Central Government shall notify the arbitrator before whom the present dispute will be tried and decided in arbitration. The plaintiffs to intimate competent Authority of the Central Government to take immediate steps to notify the arbitrator in terms of Section

7B of the Act. Such notification shall be issued within eight weeks from today.

6. The Arbitrator so appointed shall conclude the arbitration proceedings as expeditiously as possible and in any case, not later than six months from the date he enters upon arbitration or the parties are expected to make first apperances before him, whichever is earlier.

7. It is made clear that all issues raised in the present suit at the instance of either side shall be considered on merits in accordance with law in the arbitration proceedings.

8. Suit is disposed of in the above terms. Refund as per rules.

9. Learned counsel for the plaintiff-M.T.N.L., assures that intimation will be given to the Advocate for the defendant as well as the defendant forthwith about the order passed today in this suit.

(V.C. DAGA,J)